



# Sexual Assault Exams and Accompaniment: Legal, Medical and Programmatic Considerations

This document was created to ensure that the statutory rights of Texas sexual assault survivors are understood and honored. It aims to equip individuals serving sexual assault survivors in medical settings with information and resources to improve the experience felt by survivors as they navigate the medical system. While designed specifically for sexual assault programs and Children's Advocacy Centers, this resource may be utilized by any professional that serves sexual assault survivors. This document defines terms, explains statutes and survivor rights, and offers legal, medical and programmatic considerations.

Survivors' legal rights, needs, and service experiences must remain the top priority when considering medical accompaniment. Agencies should thoroughly vet their collaborations and ensure survivor services are conducted at the highest standard of care. Partnering agencies should be transparent at the outset regarding the strengths and limitations each agency might have in providing medical accompaniment services. Collaborative efforts will provide improved, non-duplicative, and efficient services for survivors.

## Legal Considerations for Forensic Medical Exams

### KEY TERMS AND DEFINITIONS

**Forensic medical examination:** collection and preservation of evidence related to investigation and prosecution of a sexual assault.

**Medical evaluation:** evaluation of medical needs, diagnosis and treatment to ensure health, safety, and well-being.

**Sexual assault advocate:** sexual assault program employee/volunteer who provides advocacy services.

**Sexual assault program:** local public or private nonprofit corporation that provides minimum services to adult sexual assault survivors (term is used interchangeably with "rape crisis center").

When a survivor of sexual assault reports their assault to law enforcement (or if a minor, the assault comes to the attention of law enforcement or DFPS) or arrives at a healthcare facility within 120 hours of their assault, a forensic medical exam must be conducted, if the survivor consents.<sup>1</sup> If the survivor is a minor, by requirement of statute, a medical evaluation shall also be requested if more than 120 hours has passed since their assault.

Due to the fact that delayed disclosure of abuse is common in cases of child sexual abuse, medical evaluations often occur well beyond 120 hours after the assault or abuse. They are a critical component in the coordinated multidisciplinary response to child abuse cases.<sup>2</sup>

It may be appropriate to offer adult survivors an exam beyond 120 hours of the assault in order to collect evidence to further an investigation or prosecution of a sexual assault case, and also to assess medical needs. The law provides healthcare providers with broad discretion to offer an exam to adult survivors after 120 hours have passed since the assault.

### DID YOU KNOW?

*Children have a legal right to be referred for a medical evaluation for cases in which more than 120 hours have passed since the alleged assault. This statute was enacted to assure that children are regularly referred for medical exams, and decisions regarding appropriateness or extent of medical examination leans on the medical professional and agreed upon multidisciplinary protocols.<sup>3</sup>*

<sup>1</sup>Texas Code of Criminal Procedure Art. 56A.251 and 56A.303

<sup>2</sup>Children's Advocacy Centers of Texas, Inc. Medical Evaluation Toolkit. 2014.

<sup>3</sup>Texas Code of Criminal Procedure Art. 56A.251(b)

## Legal Considerations for Medical Accompaniment

### KEY TERMS AND DEFINITIONS

**Forensic medical accompaniment:** statutorily protected in-room presence of a sexual assault advocate.

**General medical accompaniment:** any advocate present at the facility where the exam is taking place to provide support and resources.

Survivors have the right to be offered the presence of a sexual assault advocate before a forensic medical exam is begun.<sup>4</sup> This type of accompaniment is called forensic medical accompaniment. The law requires the healthcare provider conducting the exam to offer the presence of a sexual assault advocate to any “person” being examined, which includes both adults and children.

During forensic medical accompaniment, an advocate provides the survivor with counseling, support services and information related to the survivors’ rights. While providing this accompaniment, the advocate may not delay or impede the screening or stabilization of an emergency medical condition.

By contrast, general accompaniment is provided by advocates or victim services personnel that do not work at a sexual assault program, or have not received sexual assault program training.

Such advocates might include a family advocate from a Children’s Advocacy Center (CAC), a commercially sexually exploited youth (CSEY) advocate from a human trafficking agency, an advocate from a domestic violence agency, or a law enforcement victim services counselor. These professionals provide emotional support, psychoeducation, and resource connection for the survivor before or after, but not during, an examination.


### DID YOU KNOW?

*No one can deny a survivor’s right to forensic medical accompaniment by a sexual assault advocate if the survivor wishes the advocate to be in the room. Medical providers must offer a survivor the presence of a sexual assault advocate before beginning a forensic medical exam, even if another type of advocate is available.*

Advocates may provide general medical accompaniment during a forensic medical examination only when:

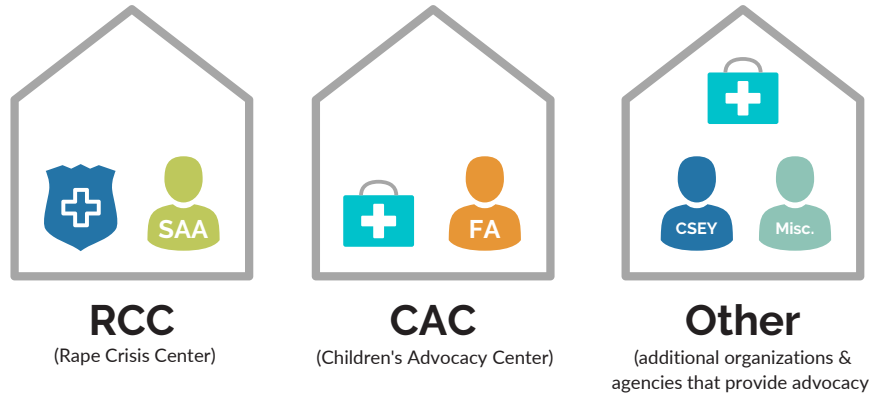
- ➔ The victim is offered and declines forensic medical accompaniment by a sexual assault advocate, or a sexual assault advocate is not available;
- ➔ The victim requests the presence of a general medical accompaniment advocate in the room during an examination; and
- ➔ The medical provider agrees to allow a general medical accompaniment advocate to be present.

Given these conditions are met, the question of whether an advocate providing general medical accompaniment should be in an exam room may be shaped by local protocols, available advocate services, specifics of an individual case, and victim preferences.

 *While there are no statutes in place regarding the right to medical accompaniment for non-acute evaluations for children or adults, if consent is provided and agreement is received from the medical provider, medical accompaniment is a valid option and best practice.*

<sup>4</sup> Texas Code of Criminal Procedure Art. 56A.351

## Quick Reference Guide: Programs, Advocates and Accompaniment



KEY



**Forensic Medical Accompaniment:**  
Statutory protection exists for advocates to accompany during sexual assault forensic examinations



**Advocate:** Sexual Assault Advocate (SAA), Family Advocate (FA), Commercially Sexually Exploited Youth Advocate (CSEY), Misc. (law enforcement victim advocate, domestic violence center advocate, support persons)



**General Medical Accompaniment:**  
Statutory protection does not exist for advocates to accompany during forensic medical examinations

**Sexual assault programs** (also known as rape crisis centers) and **sexual assault advocates** are precisely defined by the law. A sexual assault program must meet very particular minimum service standards. Moreover, only an employee or volunteer of a sexual assault program that has completed a sexual assault training program certified by the Office of the Attorney General is eligible to provide the statutory duty of medical accompaniment.

*Sexual Assault Programs* provide confidential, community-based advocacy and support to survivors of sexual violence and contribute to the movement to eliminate sexual violence. Programs must provide these minimum services to victims of stranger and non-stranger sexual assault and abuse:

- ➔ 24/7 crisis intervention via a hotline
- ➔ Legal advocacy for survivors, public education, and awareness on sexual assault
- ➔ Accompaniment at hospitals, law enforcement offices, prosecutors' offices, and courts
- ➔ Counseling for survivors of sexual assault<sup>5</sup>

*Sexual Assault Advocates* provide support and connect sexual assault survivors with resources and legal information. Individuals who do not work or volunteer for a sexual assault program do not meet the statutorily defined standards for providing forensic medical accompaniment, even if they receive training.

**Children's Advocacy Centers (CACs)** facilitate the coordinated response to child abuse cases by the entities involved in the investigation and prosecution of cases while providing services that address the emotional needs of child victims and their non-offending family members. This collaborative model<sup>6</sup> interweaves the work of professionals who make up the statutorily defined CAC multidisciplinary team (MDT):

- ➔ law enforcement (local police and sheriffs' departments)
- ➔ criminal justice (local county and district attorneys and prosecutors)
- ➔ child protection (Department of Family and Protective Services)
- ➔ medical (doctors, nurses, and hospital staff)
- ➔ mental health (CAC staff clinicians or CAC contracted providers)
- ➔ victim advocates (i.e., CAC family advocates, law enforcement victim services, victims' assistance coordinators from a local district attorney's office)

The primary goal of a CAC is to minimize re-victimization of child victims and protective family members throughout the investigation and prosecution processes and to facilitate successful outcomes in both the child protection and the criminal justice systems through effective, collaborative fact-finding and coordinated case development.

<sup>5</sup> Section 420.071 of the Texas Government Code expressly provides that all communication between a sexual assault advocate and a client is confidential and can only be released under specific circumstances.


<sup>6</sup> Title 5 Subchapter E of the Texas Family Code outlines the requirements of a CAC and the multidisciplinary response. It also makes specific allowances for members of the MDT to share confidential information about a victim. Information sharing is restricted to those that meet statutory requirements and are entered into a memorandum of understanding.

**Family Advocates**<sup>7</sup> work for CACs and are required to receive comprehensive training in providing trauma-responsive support and advocacy to child victims and their non-offending caregivers throughout the coordinated MDT response. Accompaniment is provided during forensic interview appointments, court preparation and proceedings, and depending on the specific community working protocols, medical exams (general medical accompaniment). They connect child and caregiver with quality, evidence-based mental health treatment, provide legal information, and help with crisis stabilization and access to concrete resources and support services.

*Family Advocates* should only provide medical accompaniment to child victims or adults that are part of written protocols for an MDT response (i.e., adults diagnosed with an Intellectual Developmental Disorder). Family advocates should consider victim privacy, the relevant statute, and ethical obligations when determining what victim information is required or relevant to share. It is best practice to provide informed consent about the specific allowances to share confidential information with the MDT.

**Commercially Sexually Exploited Youth (CSEY) Advocates** are field-based advocates employed by a nonprofit agency to specifically serve youth survivors of commercial sexual exploitation or child sex trafficking. They provide individualized 24/7 crisis response and long-term, trust-based relational support to children and youth survivors up to age 22. They often respond to the hospital or medical facility after law enforcement has recovered a child, and are there to build rapport and support the child.

*\*Note that there may be a survivor-chosen support person present who they may desire to act as an advocate in an unofficial capacity (such as a friend or family member)*

 While there is no law against having a support person present during a sexual assault exam, there is no law protecting it either. The law only protects sexual assault program advocates. A facility may refuse to allow a support person to be present during an exam but cannot deny a survivor's right to a sexual assault program advocate.

## Policies and Protocols Guidance for Accompaniment Agreements

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Sexual assault programs (such as an RCC) and CACs are guided by different statutes as it relates to protocol development. Sexual assault programs must develop protocol within the Sexual Assault Response Team (SART) and follow the standards for emergency care for survivors of sexual assault as it is outlined in Health and Safety Code Chapter 323. CACs must develop protocols as outlined in Chapter 264 of the Family Code. Protocols are officially adopted by multidisciplinary teams to ensure access to specialized medical assessments for sexual assault survivors who are minors.

For technical assistance related to medical accompaniment and program development, please contact Children's Advocacy Center of Texas, Inc. ([cactx.org](http://cactx.org)) or the Texas Association Against Sexual Assault ([taasa.org](http://taasa.org))

<sup>7</sup>Children's Advocacy Centers of Texas (CACTX), the membership organization for the state's local children's advocacy centers, monitors CAC's adherence to CACTX Standards and the Texas Family Code. The CACTX Victim Support and Advocacy Standard requires a minimum of 24 training hours in victim advocacy. The CACTX Training Program provides core training (50+ hours) for this service area, which includes training on acute and non-acute medical exams by medical experts, and supporting child survivors and their caregivers during the medical component of the multidisciplinary response.